

2013 DRAFTING REQUEST

Bill

Received: **10/10/2012** Received By: **mshovers**
Wanted: **As time permits** Companion to LRB:
For: **Administration-Budget 6-1923** By/Representing: **Quinn**
May Contact: Drafter: **mshovers**
Subject: **Tax, Individual - income credit** Addl. Drafters:
Tax, Individual - miscellaneous Extra Copies:

Submit via email: **YES**
Requester's email:
Carbon copy (CC) to:

Pre Topic:

DOA:.....Quinn, BB0033 -

Topic:

Create criminal and civil penalties for false individual income tax refund claims

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	mshovers 11/1/2012			_____ _____			
/P1		jdye 11/2/2012	11/5/2012	_____ _____	srose 11/5/2012		State

FE Sent For:

<END>

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/? mshovers

PI 11/2 jld

PI MES 10/31/12

11/5/12

FE Sent For:

<END>

Kreye, Joseph

MES?

From: Hanaman, Cathlene
Sent: Monday, October 08, 2012 8:31 AM
To: Shovers, Marc; Kreye, Joseph
Subject: FW: Statutory Language Drafting Request
Attachments: Civil and Criminal Penalties for False Credit Claims.docx

From: ~~brian.quinn@wisconsin.gov~~ [mailto:brian.quinn@wisconsin.gov]
Sent: Thursday, September 27, 2012 5:36 PM
To: Hanaman, Cathlene
Cc: Thornton, Scott - DOA; Frederick, Caitlin - DOA; Quinn, Brian D - DOA
Subject: Statutory Language Drafting Request

Biennial Budget:2013-15

Topic: Create Criminal and Civil Penalties for False Credit Claims

Tracking Code: ~~PP0023~~

SBO Team: TLGED

SBO Analyst: Quinn, Brian D - DOA
Phone: (608) 266-1923
E-mail: brian.quinn@wisconsin.gov

Agency Acronym: DOR

Agency Number: 566

Priority: Low

Intent:

Create civil penalties for negligently or fraudulently filed individual income tax refund claims, comparable to those that currently exist in sec. 77.60(12), for incorrect and excessive sales/use tax refund claims.

Amend sec. 71.83(2)(b)1, relating to criminal penalties for income tax return fraud, to impose penalties on individuals who file a false or fraudulent income tax return to obtain a fraudulent refund.

Attachments: True

Please send completed drafts to statlanguage@wisapps.wi.gov

TITLE: CIVIL AND CRIMINAL PENALTIES FOR FALSE CREDIT CLAIMS

DRAFTING INSTRUCTIONS

1. For civil penalties, create secs. 71.83(1)(a)11 and (b)7, as follows:
 - 71.83(1)(a)11. *'Negligently filed refund claims.'* A person who negligently files an incorrect claim for refund of tax or credits under this chapter is subject to a penalty of 25% of the difference between the amount claimed and the amount, if any, that should have been claimed.
 - 71.83(1)(b)7. *'Fraudulently filed refund claims.'* A person who fraudulently files an incorrect claim for refund of tax or credits under this chapter is subject to a penalty of 100% of the difference between the amount claimed and the amount, if any, that should have been claimed.
2. For criminal penalties, amend sec. 71.83(2)(b)1 as follows:
 - 71.83(2)(b)1. *'False income tax return; fraud.'* Any person, other than a corporation or limited liability company, who renders a false or fraudulent income tax return with intent to defeat or evade any assessment required by this chapter, or to obtain a refund with fraudulent intent, is guilty of a Class H felony and may be assessed the cost of prosecution.

EFFECTIVE DATE AND/OR INITIAL APPLICABILITY

Day after publication.



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-0302/P1

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DOA:.....Quinn, BB0033 - Create criminal and civil penalties for false individual income tax refund claims

FOR 2013-2015 BUDGET — NOT READY FOR INTRODUCTION

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AN ACT ...; relating to: the budget.✓

Analysis by the Legislative Reference Bureau

TAXATION✓

INCOME TAXATION✓

* This bill creates penalties for a person who negligently or fraudulently files an incorrect claim for a tax refund or credit. Under the bill, the penalty for negligence is 25 percent of the difference between the amount claimed and the amount that should have been claimed, and the penalty for fraud is 100 percent of the difference between the amount claimed and the amount that should have been claimed. In addition, any person other than a corporation or limited liability company, who files an income tax return in which the person tries to obtain a refund or credit with fraudulent intent is guilty of a Class H felony.

* For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

2

SECTION 1. 71.83 (1) (a) 11. of the statutes is created to read:✓

71.83 (1) (a) 11. 'Negligently filed claims.' A person who negligently files an incorrect claim for refund of tax, or credits, under this chapter is subject to a penalty of 25 percent of the difference between the amount claimed and the amount that should have been claimed.

SECTION 2. 71.83 (1) (b) 7.^x of the statutes is created to read:

71.83 (1) (b) 7. 'Fraudulently filed claims.' A person who fraudulently files an incorrect claim for refund of tax, or credits, under this chapter is subject to a penalty of 100 percent of the difference between the amount claimed and the amount that should have been claimed.

SECTION 3. 71.83 (2) (b) 1.^x of the statutes is amended to read:

71.83 (2) (b) 1. 'False income tax return; fraud.' Any person, other than a corporation or limited liability company, who renders a false or fraudulent income tax return with intent to defeat or evade any assessment required by this chapter, or to obtain a refund or credit with fraudulent intent, is guilty of a Class H felony and may be assessed the cost of prosecution. In this subdivision, "return" includes a separate return filed by a spouse with respect to a taxable year for which a joint return is filed under s. 71.03 (2) (g) to (L) after the filing of that separate return, and a joint return filed by the spouses with respect to a taxable year for which a separate return is filed under s. 71.03 (2) (m) after the filing of that joint return.

History: 1987 a. 312; 1989 a. 31, 90; 1991 a. 39, 190, 269, 315; 1993 a. 16, 112, 213; 1995 a. 428, 453; 1997 a. 27, 237, 283, 323; 1999 a. 32; 2001 a. 109; 2007 a. 20; 2009 a. 28; 2011 a. 1, 68.

SECTION 9337. Initial applicability; Revenue.

(1) **NEGLIGENTLY OR FRAUDULENTLY FILED INCOME TAX RETURNS.** The treatment of section 71.83 (1) (a) 11. ^{and} (b) 7. ^{and} (2) (b) 1. of the statutes first applies to an income tax return that is filed on the effective date of this subsection.

(END)



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-0302/P1

MES:jld:rs

DOA:.....Quinn, BB0033 - Create criminal and civil penalties for false individual income tax refund claims

FOR 2013-2015 BUDGET — NOT READY FOR INTRODUCTION

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This bill creates penalties for a person who negligently or fraudulently files an incorrect claim for a tax refund or credit. Under the bill, the penalty for negligence is 25 percent of the difference between the amount claimed and the amount that should have been claimed, and the penalty for fraud is 100 percent of the difference between the amount claimed and the amount that should have been claimed. In addition, any person, other than a corporation or limited liability company, who files an income tax return in which the person tries to obtain a refund or credit with fraudulent intent is guilty of a Class H felony.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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71.83 (1) (a) 11. ‘Negligently filed claims.’ A person who negligently files an incorrect claim for refund of tax, or credits, under this chapter is subject to a penalty of 25 percent of the difference between the amount claimed and the amount that should have been claimed.

SECTION 2. 71.83 (1) (b) 7. of the statutes is created to read:

71.83 (1) (b) 7. 'Fraudulently filed claims.' A person who fraudulently files an incorrect claim for refund of tax, or credits, under this chapter is subject to a penalty of 100 percent of the difference between the amount claimed and the amount that should have been claimed.

SECTION 3. 71.83 (2) (b) 1. of the statutes is amended to read:

71.83 (2) (b) 1. ‘False income tax return; fraud.’ Any person, other than a corporation or limited liability company, who renders a false or fraudulent income tax return with intent to defeat or evade any assessment required by this chapter, or to obtain a refund or credit with fraudulent intent, is guilty of a Class H felony and may be assessed the cost of prosecution. In this subdivision, “return” includes a separate return filed by a spouse with respect to a taxable year for which a joint return is filed under s. 71.03 (2) (g) to (L) after the filing of that separate return, and a joint return filed by the spouses with respect to a taxable year for which a separate return is filed under s. 71.03 (2) (m) after the filing of that joint return.

SECTION 9337. Initial applicability; Revenue.

(1) **NEGLIGENTLY OR FRAUDULENTLY FILED INCOME TAX RETURNS.** The treatment of section 71.83 (1) (a) 11. and (b) 7. and (2) (b) 1. of the statutes first applies to an income tax return that is filed on the effective date of this subsection.

(END)